The Kentucky Commentator

University of Kentucky College of Law

LEXINGTON, KENTUCKY | A PUBLICATION OF THE STUDENT BAR ASSOCIATION | OCTOBER, 1966

A New Constitution For Kentucky?

PRO

By GOV. EDWARD T. BREATHITT

The proposed Revision of the 1891 Constitution has been in circulation for many months, and by now it is safe to assume that the Bar has more than a passing acquaintance with its provisions. It must be gratifying to the 30 or more attorneys (out of a total of 47 members) who served on the Constitution Revision Assembly that the document has won the overwhelming approval of the Bar—including the endorsement of the Kentucky State Bar Association, six of whose past presidents participated in its drafting.

The Revision has been called a lawyers' plot.

There is of course a studied rationale in the proposal, and it displays the coherence of the lawyer's art. It is based on an acute perception of the present distribution of legal and political power, a recognition of its undesirable (some would say dangerous) aspects, and a conscientious desire to correct them.

The existing pattern of power is this—and I hope I may be forgiven for painting in broad strokes.

1. Local governments are weak clients of the legislature, local energies constrained within pattern of uniformity imposed by the 1891 Constitution and the statutes pursuant to it, local innovations in-

operative pending the stamp of legislative approval.

2. The legislative branch is weak and necessarily dependant upon the executive for policy planning and, more often than not, the texts of needed statutes. It follows that the governor's power is excessive, as compared to the ideal balance of powers. He must function in roles traditionally within the legislative gambit in order that government as a whole can perform with maximum effectiveness under the circumstances.

3. The rule of law is imperiled. The present appellate system puts an intolerable strain upon judges,

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CON

By JOSEPH J. LEARY

The proposed constitution is so patently deficient—or positively hurtful that its defeat is important to the future welfare of Kentucky. It is to be regretted that the document was not formulated by conventional methods and debated in such manner as would have permitted its obvious defects to have been remedied.

At the cost of many lives and much money our federal government supported a free election in South Vietnam on Sept. 11, 1966, in order that the people of that country might vote for their delegates to a constitutional convention. The people of Kentucky were not so fortunate. The proposed constitution was written by delegates not elected by them.

No one can calculate the harm which would be done if, as most constitutional lawyers believe, the exemption of farm implements and farm machinery, livestock, capital stock of building and loan associations, manufacturing machinery and products in course of manufacture, unmanufactured agricultural products, money in hand, notes, bonds and other intangibles is removed.

A distinguished Louisville lawyer has written:

"It is, to say the least, unfortunate that, if the framers

of the new constitution intended . . ." to exempt these classes of property "they did not use specific language" to that effect.

*"The omission of this phrase was apparently not inadvertent but was based upon the opinion expressed in the debates that the phrasing was not necessary. *** Unfortunately, judicial history in this field does not support this assertion."*

Indeed, it was unfortunate! A simple sentence, clearly expressed, could have removed the obscurity which has caused great concern. If these classes of property—now

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Professor Emeritus:

Moreland On Students, Faculty, And ...

By HENRY ROSENTHAL

"The quality of student at the University of Kentucky has always been good," says Prof. Roy Moreland who has now had 40 years of experience teaching at the College of Law. "If there are any weaknesses it is not in the calibre of student, but rather in the certain weaknesses in the faculty and the curriculum."

Prof. Moreland maintains that there is too much material offered in class that does not go into the making of a lawyer. "About five years ago there was a committee for the revision of the curriculum and a number of suggestions were made by the faculty to the committee." According to Prof. Moreland the committee was unable to resolve itself and turned in no specific recommendations. All suggestions were then added to the curriculum resulting in a "hodge-podge" curriculum.

Prof. Moreland said the more conservative members of the faculty feel that the curriculum is too fringy and does not deal enough with the substance of the law.

At the risk of alienating some of the faculty members by his statements, Prof. Moreland said he would rather please the students than the faculty. "I'll probably get a rebuttal from some members of the faculty," he confided.

While it may or may not be true that movies are better than ever, Prof. Moreland says law students are not. "I think that in my forty years there has been no apparent change in the calibre of students. This may not make the current students very happy, but the alumni should be pleased to hear it. I'm sure there are some other members of the faculty who feel differently," he remarked.

Prof. Moreland said, "It is true that about 20 years ago we raised the admission requirements from 2.0 to 2.3 which eliminated the type of student we had the most trouble with."

Now, however, the standards have been lowered again in principles if not in fact Prof. Moreland claims. He believes that the use of the L.S.A.T. allows some scholastically incompetent students who are not 2.3 to get into the College of Law.

Nevertheless, he maintains, "There is nothing wrong with most student blood in Kentucky."

At present Prof. Moreland is working on Conflicts in choice of law in tort cases and has been working recently on Conflicts in jurisdiction of courts.

Prof. Moreland received his A.B. from Transylvania in 1920 and his LL.B. from the University of Kentucky in 1923. In that same year he was admitted to the order of the Coif. Receiving a J.D. from Chicago in 1928, he completed his S.J.D. at Harvard in 1942.

He was a practicing attorney in Lexington from 1924-26 and became an assistant professor in 1927. Appointed an associate professor in 1927, he bacame a full professor in 1929.

Among Prof. Moreland's publications are the following books: A *Rationale of Criminal Law*, *The Law of Homicide*, and *Modern Criminal Procedure*.

While at the University he has taught Conflicts of Law, Public Utilities, Equity, Criminal Law, Real Property, Administration of Criminal Law, Legal Research, and Oil and Gas.

'Art Of Lawyering' Boosted By Moot Court

By JUDI SMITH

Oral advocacy is a significant part of the "Art of Lawyering." Encouraging the development of this verbal skill, the UK College of Law annually sponsors the Appellate Moot Court competition.

Last spring for the first time UK engaged in an interscholastic round with the University of Cincinnati Moot Court team which will argue in the Regional round. Using the same problem composed by UK professors of Law for argument in their preliminary rounds, the appellate team from Cincinnati argued in Lexington the appellee team of Mr. Frank Reaves and Mr. Mitchell McConnell. UK triumphed in a 2-1 decision.

The appellate team of Mrs. Judith Smith and Mr. Kevin Charters journeyed to Cincinnati where they defeated the UC appellee team 3-0. This spring Ohio State Law School will join UK and UC for a tri-school competition following the selection of each school's top four oral advocates.

The Moot Court program begins for each class entering Law School by dividing the students into twelve clubs, named after Supreme Court Justices of Kentucky lineage. Assigned arbitrarily to represent the appellant or appellee in a problem written by Moot Court Board members, the students engage in one practice round of arguments in the spring semester of their Freshman year.

The following fall the students represent the opposite party and argue before third-year Moot Court members. The top two advocates selected from each club become the new Moot Court Board. The top advocates are judged on both brief and oral argument, the former being weighed 40 percent and the latter 60 percent.

Criteria for judging the brief revolves around logical development of the argument, an analysis of the issues and authorities cited, formal accuracy of citation, and general writting style. The oral argument is evaluated by the persuasive qualities of the presentation, precision of articulate language, and the reasoning ability in response to questions from the bench.

The top participants from each club engage in a quarter-final round from which eight advocates are selected. The top eight are whittled to four counselors who argue in the spring semester of te second year before the Kentucky Court of Appeals. The Court selects in order the top three speakers who will represent the University of Kentucky in Regional Moot Court competition the next fall.

The Moot Court Board writes the problems each year for intrascholastic competition. The problem for the interscholastic competition in the Regional round is composed by the Young Lawyers Committee of the Association of the Bar of the City of New York.

Just last week the Moot Court Board selected the top two advocates from each club. They are Robert Gallenstein, Maysville; Jack Jennings, Northfield, Illinois; Steve Beshear, Dawson Springs; Jim Nickell, Ezel; Charles Shackleford, Richmond; Curtis Quindry, Fairfield, Illinois; Jim Higgs, Frankfort; Maynard Shryver, Lexington; John Compton, Neon; Jim Coblin, Louisville; Ron Bamberger, Owensboro.

Bill Harkins, Lexington; John Eddy Moore, Terre Haute, Ind; Dudley Webb, Whitesburg; Bill Deaton, Nitro, W.Va.; Ed Green, Lebanon; Kathy Fitzerald, Lexington; John Elias, Bronxville, N.Y.; A. C. Litton, Charleston, W. Va.; Phil Grogan, Bowling Green; David Emerson, Lexington; Norrie Wake, Lexington; Lanny Judd, Burkesville; Jim Frazer, Monticello. These Moot Court Board members are composing the problems for the upcoming freshman practice rounds next semester.

On November 18-19 Mr. Mitch McConell, Mrs. Judith Smith, and Mr. Kevin Charters will go to Lincoln, Nebraska for the Regional Competition.

Mr. McConnell and Mrs. Smith will submit a brief for the appellant, Mr. Joseph Yugdab, who has been convicted of the crime of Bribery in the First Degree upon the basis of certain recordings made pursuant to a court order authorizing the installation of an electronic eavesdropping device upon a showing a probable cause.

Thirteen Law Schools will argue in the Regional at Lincoln. The teams draw to determine whether they will represent the appellant or the appellee in each round of argument.

UK College of Law Moot Court Board members include (from left): Professor Richard Gilliam, Faculty Advisor, Chappel Wilson, Cadiz; Harry Hager, Hamlin, West Virginia; Mrs. Judy Smith, Bowling Green; and Professor Garrett Flickinger, Faculty Advisor; (Second row) Ron Sheffer, Henderson; David Thomason, Smithland; Bob Yang, Berea; Frank Reaves, Lexington; and Mitch McConnell, Louisville; (Third row) Tom Grady, Springfield, Ohio; Tebbs Moore, Harrodsburg; Duane Schwartz, Louisville; Karl Crandall, Lexington; and Richard Ford, Owensboro; (Fourth row) Lionel Hawse, Louisville; Jim Stephenson, Ashland; Bill Barnett, Harrodsburg; and Donald Webb, Whitesburg. These seniors represent the top oral advocates in the school and administer the program for first and second year students.

Law Forum Format Formulated

Doug Hubbard and Paul Blair, Chairmen of the Speakers' Fourm Committee of the S. B. A. have announced the following schedule of weekly speakers for the remainder of the fall semester. The Forum is open to the public.

Oct. 24—Rev. A. D. Williams King (brother of Rev. Martin Luther King) on Civil Rights in Kentucky.

Oct. 31 — Lexington attorney Harry Miller on Domestic Relations Practice in Kentucky.

Nov. 7—Student-Faculty debate on the Proposition: This House is Still Worried to Tears! Professor Roy Moreland and Pete Guthrie against Professor Robert Sedler and Chris Gorman.

Nov. 14 — Rudolph Muelling, head of Pathology department of the Medical School and an attorney, on Proposed Coroner's law for Kentucky.

Nov. 22—(Tuesday) James Caldwell of Louisville; Minority leader of the state House of Representatives; on the Role of the Minority in the Legislature.

New Legal Groups Formed By Students

The 1965-1966 school year saw the beginning of two legal groups at the University of Kentucky College of Law. They are Delta Theta Phi and Kappa Beta Pi.

The Alben W. Barkley Senate of Delta Theta Phi was installed on Feb. 12, 1966, by the District Chancellor, Earnest J. Eubanks of Louisville. After initiation of the twenty-nine charter members, the senate had a cocktail party and dinner. Prof. William Garrett Flickinger is the chapter advisor and was instrumental in starting this chapter. The chapter now has 55 members. An annual award for the outstanding members has been established. Last year's recipent was Professor Flickinger. On October 17, the chapter had a Happy Hour followed by a dinner with an outstanding Lexington attorney speaking to them.

Delta Theta Phi Officers

Officers for this year are as follows: Dean, Lou Johnson; Vice Dean, Bob Vance; Tribune, Clyde Richardson; Exchequer, John Elias; Master of Rolls, Gordon Finley; Master of Ritual, Jim Pate; Bailiff, Norrie Wake.

Beta Chi chapter of Kappa Beta Pi International Legal Sorority was installed on January 15, 1966, by Mrs. Marie Harris, Grand Dean. The chapter members are: Judi Smith, Betsy Parry, Sue Wilson, Jackie Franks, Eunice Diachun, Carolyn Connell, and Ann Truitt. Miss Dorothy Salmon, law librarian, was made an honorary member. There are now 11 members. Kappa Beta Pi has established an annual award given to the outstanding member. Ann Truitt, first Dean of Beta Chi chapter, received the award last year. The legal sorority sponsored Miss Katherine Peden, state Commissioner of Commerce, in a speech given in the College of Law courtroom on October 18.

Kappa Beta Thi Officers

Officers for this Year are as follows: Dean, Sue Wilson; Associate Dean, Betsy Parry; Registrar, Becky Anderson; Chancellor, Kathy Fitzgearald; Marshall, Laura Murrell; Historian, Judi Smith; and Correspondent, Jakie Franks.

Phi Delta Phi Officers

Officers for Phi Delta Phi are as follows: President, Ron Christopher; Vice President, Frank Reaves; Secretary, Alan Lips; Treasurer, Alan Peck.

Phi Alpha Delta Officers

Officers for Phi Alpha Delta are as follows: President, Bob Barrett; Vice President, Duane Schwartz; Secretary, Bob Carter; Treasurer, Wade Richardson.

The three legal fraternities joined forces to sponser two occasions this semester. On September 16, they had an informal dance at Lansdowne Country Club; and they sponsored a cocktail party before the Barrister's Ball.

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ALUMNI

SEE PAGE FIVE

The Editorial Board of the Kentucky Law Journal is composed of the following: front, left to right; Gene Mullins, Richmond; Fred Karem, Louisville; Paul Blair, Morehead; second row: Hawse Johnson, Paintsville; Jim Waitman, Owensboro; and Frank Reaves, Lexington.

Karem, KLJ Editor, Cites Goals, Changes

By TIM CONE

"We are striving for continued improvement of reform and development of the Journal begun last year. The staff has been very active, and this is one reason for our optimism."

These were the words of Fred Karem, editor-in-chief of the Kentucky Law Journal, in discussing the goals of his staff. He added that operating the Journal is a full-time job, and that the present group has been working since mid-June.

Karem and his staff are working on volume fifty-five. The fall issue, dedicated to Professor Roy Moreland, recently became available.

The Journal's most important project of this year is the annual Court of Appeals Review, to be published in late December or early January. This is a review of the cases decided by Kentucky's highest court during the 1965-66 term. In preparing this feature, Karem said that the Journal has the Kentucky lawyer in mind for it is designed to aid the attorney in his work.

Karem pointed out that, "An attempt is made to go beyond the digest approach, with evaluation and discussion of significant cases. We hope to be able to draw some conclusions about the overall functioning of the Court of Appeals during this term." Other objectives in preparing this section are the observation of trends and analysis of the legal and social significance of the decisions.

"The entire staff is working on the Review, and we think it will be of great benefit to the Kentucky lawyer."

The Law Journal Editorial Board places primary emphasis on topic selection. Criteria for choosing the subjects are set in advance, and close adherence to these principles is required. Topics must have far-reaching legal and social importance, and must be timely and interesting. "The Kentucky practitioner can look forward to an excellent symposium of lead articles on bankruptcy which will appear in the spring," Karem said.

In the area of organization and operation, the Journal's most serious undertaking is a revamping of the procedure for selection of new members. Heretofore, selection has been based solely on grades, but starting in January, the Editorial Board hopes to initiate a competitive candidacy program. About thirty first-year students will qualify and ultimate selection will depend on performance during a seven-week period. Each candidate will be graded on two comment-writing assignments and an editing examination. Of the original thirty participants, approximately eighteen will be chosen for staff membership. This final selection will be conditional on satisfactory second-semester grades. Many of the better law journals use this method of selection, according to the editor-in-chief.

Karem added that the proposed candidacy program serves a two-fold purpose. "First, it gives all participants, whether or not they become members, excellent training in legal research and writing. Second, it insures that the Journal staff will be composed only of experienced, qualified and interested persons."

He said there is still an opportunity to subscribe to volume fifty-five. To Kentucky practitioners, the price for four issues is four dollars.

Karem concluded by saying that practising lawyers are in mind when the Journal is published. "We encourage them to give us ideas about good topics and suggestions for improvement."

ALSA Provides Insight Into SBA Operations

By STEVE BESHEAR

The 1966 Annual Meeting of the American Law Student Association, held in Montreal, Canada, from August 6-11, provided much insight into the operation of student bar associations throughout the United States. Four delegates from the University of Kentucky, Mitch McConnell, Frank Reaves, John McCann and I, attended conferences held daily to discuss the various problems of administration, such as accounting procedures, financing, etc., and to suggest ideas for new programs, from which has come our newspaper.

Other schools were especially impressed by our comprehensive Law Day program, which seems to have attracted more well-known politicians and outstanding attorneys than any similar program in the nation.

A seminar on the Extension of Legal Services to the Poor, moderated by Mr. Justice Tom. C. Clark of the United States Supreme Court, provided us all with perspective and deeper insight into a complex problem which must and will be one of the primary concerns of the legal profession for years to come.

A.L.S.A. also adopted a resolution endorsing the creation of a new Law Student Division within the American Bar Association, a move which will gain in importance as the Division is more fully developed.

In addition, appearing before us were such outstanding speakers as Thurgood Marshall, Solicitor General of the United States, and U.S. Senators Joseph Tydings of Maryland and Birch Bayh of Indiana.

As shown by the work already done, this Annual Meeting greatly enhanced the effectiveness of our Student Bar Association.

ABA President Visits Law School; Suggests Program

Orison S. Marden, of New York City, President of the American Bar Association visited the College of Law Oct. 5. He made a short address at a coffee given in his honor by the Dean and then discussed various ABA matters with the students and faculty in attendance.

In his remarks, he said that he hopes the ABA will be able to initiate a program whereby law students will become associate members, with privileges and benefits of the regular members.

Jumping Suds! A Beer Mug To Mr. Gilliam

The members of the class of 1967 recently gave a surprise party in honor of Prof. Richard D. Gilliam Jr. He was honored by the students for the conscientious job he had done and for the many extra hours of consultation and friendship he has given to students down through the years.

Prof. Gilliam was presented a silver beer mug by Pat Malloy, chairman of the party committee.

Acting Dean Paul Oberst and SBA President Mitch McConnell made remarks on behalf of the faculty and students, respectively. Bill Barnett, chairman of the Moot Court Board, announced that the new Moot Court club would be named the Gilliam Club. Prof. Gilliam is the faculty to Moot Court.

A hillbilly band, J.D. Martin and the Kentucky Mountain Boys, provided the entertainment and a good time was had by all—particularly by the honoree.

THE THRILL OF IT ALL

By JAMES ELAM

I have been asked what intramurals mean to the Law School. Most people would say that it affords the much needed physical exercise that law students so desperately need. While this is true, I think there is more involved than mere participation. For instance, can anyone deny that when the pass combination of Ronnie Sheffer to Duane Schwartz clicks for a touchdown, just a little pride creeps forth; when Karl Crandall cracks off tackle to walk over the hated BSU "bad guy"; To see Bill Whitledge slam through the offensive line and throw the opposing quarterback for a loss: Oh, the thrill of it all. It all adds up to a little pride, a little satisfaction, and much needed physical education.

Congratulations are in order for the judges for walking away with the Independent football crown for the second year in a row. This success contributes greatly to winning the overall participation trophy.

The Legal Eagles are ready to announce a nine game basketball schedule with such teams as the UK Kittens, Eastern, Murray, Georgetown, and Transylvania. Additions to this year's team include Larry Conley and John Adams of Wildcat fame. Returning stalwarts are David Yewell and Dennis Bradley. Unfortunately, the College of Law is ineligible for the NCAA tournament. The game with the Kittens is scheduled for Dec. 28. There is also a possibility that the Eagles will participate in a charity game at Ashland, provided suitable competition can be found.

EDITORIALS

The purpose of any newspaper cannot merely be set forth and listed. It is necessary that it grow and expand beyond any preconceived notion. So it is with the KENTUCKY COMMENTATOR. It is not enough that we pledge ourself to attempt to enlighten the student body, faculty, and the alumni of this law shcool.

Within any scope there must be a limit, but what is that limit? Vol. 1 No. 1. There is not much tradition in that, nor is there a heritage. All that comes must come from that. Now, the ground work is laid and the future will determine what shall be built upon that framework.

Maybe the COMMENTATOR will not offer much to the practioner who left his soul in Lafferty Hall, but in the future, perhaps, the students now, faculty and alumni later, will be offered a closer bond.

Yet, there must be an aim, a goal toward which any endeavor is directed. The Commentator has a general aim and goal to establish a deepening relationship and dialogue between alumni, faculty and student.

This is not to say that the COMMENTATOR believes that the alumni of the past can ever divest itself of the traditions of the College of Law at the University at Kentucky and the COMMENTATOR welcomes response from any alumni be he a member of the class of 1909 or the class of 1965.

But, since this is a publication of the students the real growth must come from within. Suggestions may come from unexpected quarters, but the students bear the brunt of the load as far as the development of the COMMENTATOR is concerned.

To the faculty the COMMENTATOR offers a mode of expression on any subject within the bonds of good journalism just as the same offer is made to any graduate or student. Faculty efforts will give weight and scholarly knowledge to much of the material which may appear in the COMMENTATOR.

Beyond attempting to promote growing relationship with alumni, faculty and the student the COMMENTATOR has only a base and must move in new directions.

Mitch McConnell

From The President

This first issue of the KENTUCKY COMMENTATOR is the culmination of many weeks of planning designated to put this College in step with most law schools in the country which are presently publishing newspapers monthly or, in many instances, even more frequently. It is our belief that a monthly publication of news of our outstanding students, faculty and alumni, and features on current developments in the law will be of interest to the legal community throughout the state. We have appointed Henry Rosenthal, a second year student from Winchester and a former sports editor for the Kernel, editor for this school year. Assisting Henry as associate editor will be another second year student, Tim Cone of Lexington, who is also a member of the Law Journal. They have the experience and ability to make this paper a first rate publication.

The Speakers' Forum Committee, under the leadership of Doug Hubbard of Bardstown and Paul Blair of Morehead, has again this year provided outstanding speakers every Monday. Appearing to date have been Governor A. B. Chandler, State Representative John Y. Brown, Senator John Sherman Cooper, Governor Edward T. Breathitt, Frankfort attorney Joseph Leary and Fayette County Judge Joe Johnson. We plan to schedule in the spring all the candidates for Governor and Lt. Governor running in the Democratic and Republican primaries.

Kendrick Wells, of Paintsville, and his Law-Alumni Day Committee are off to a fast start, having already received an acceptance from Houston attorney, Percy Foreman, to address the opening session of the spring event. Former Vice President Richard Nixon has indicated the chances are good that he will accept our invitation to be the main speaker but his schedule will not be finalized until December. In addition to the annual Awards Luncheon, a Seminar on "Legal Services and the Poor," a matter of prime concern to every practicing attorney in Kentucky, is being planned with the advice and cooperation of Orison S. Marden, President of the American Bar Association, who volunteered his help on his recent visit to the College of Law.

Lanny Judd of Berksville and Winky Litton of Charleston, West Virginia, chairmen of the Social Committee, did an excellent job on the Barrister's Ball and encouraged by their success having another less elaborate dance planned for November 5.

These are just a few of the programs being sponsored by this year's Student Bar Association. Other programs and issues affecting the student lawyer at the College of Law will be discussed in this column throughout the year.

(Next Month: Student Representation on Faculty Committees)

Dr. Oberst

From The Dean

As the Student Bar Association begins its new venture, the publication of the KENTUCKY COMMENTATOR, I would like to extend best wishes on behalf of the Dean, Dr. William L. Matthews, Jr., who is away for the year as a visiting professor at New York University Law School, and of the entire Faculty of the College of Law. Each year the leaders of the Student Bar have looked for new ways to serve the law school and it is with real pride that we see this tradition being continued with the first issue of a long dreamed of but never quite achieved publication. We wish it great success and a long life.

This promises to be an interesting year in the College of Law. Six new faculty members have begun teaching full time. The Student Bar Association's Monday Forum has brought us a succession of prominent speakers who utilized the occassion to make significant statements. The first issue of the Law Journal appeared on October 14, the earliest publication in the memory of man. A number of spirited controversies have raged up and down the corridors and in and out of the classrooms, not the least of which was the Great Calendar Proposal. On the lighter side, the social events have never been so many and delightful, and the law student participation in intramural athletics has never been so extensive and successful.

As we settle into a new school year, it is well to consider where we are going. Last week at the dedication of Rutgers University's new law building, Mr. Justice Brennan charged that the great challenge of the law schools today is that of preparing the legal profession for serving the poor as well as the rich. "Can we honestly protest as untrue the charge that our legal system has a built-in bias against the poor, not merely procedural but substantive as well?" In this lies the great challenge to the law schools and the law teachers of the future. "The frustrated poor must be able to meet the affluent on an equal footing."

One method he suggested was the enlargement of student participation in legal aid programs: "Nothing can better teach students the meaning of human dignity and why our society cherishes it as the supreme value than participation in the compassionate aspects of the living law by helping confused and worried people over problems of rent and family and small inheritances-problems of little or no significance in the large but which can assume terrifying proportions for the people concerned."

In the past several years a few of our faculty members and students have begun working in the area of Legal Aid, "Poor Peoples" Law, the Indigent Defendant, and the like. Perhaps the most significant direction our law school could take at this time would be an effort to involve every student in "the great challenge" before his graduation.

The commentator is published by the Student Bar Association and hopefully will appear monthly. While plans call for a four page paper, as an inagural issue the COMMENTATOR appears with six pages. The Board of Governors of the SBA are seated, Mitch McConnell, Louisville; Standing from left to right, Bruce Stith, Lexington; Clyde Richardson, Frankfort; John McCann, Winchester, Ann Truitt, Lexington; and Frank Reaves, Lexington.

The Kentucky Commentator

HENRY ROSENTHAL, *Editor*

TIM CONE, *Associate Editor* DICK HOLT, *Business Manager*

SBA Board of Governors: Mitch McConnell, president; Frank Reaves, vice-president; Ann Truitt, secretary; John McCann, treasurer; Duane Schwartz, third year representative; Clyde Richardson, second year representative; Bruce Stith, first year representative.

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To A New Constitution:

A Noted Attorney Says Vote No

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exempt from local taxation—are required to be taxed at the local rate (*and the proposed constitution does not exempt them nor authorize the legislature to exempt them*) the entire economy of Kentucky would be threatened.

All citizens are interested, in one way or another, in their units of local government. Cities, school districts, water districts, drainage districts and many others are very close and very helpful to many of the people in Kentucky.

Direct Control

A maximum effort has been exerted in the proposed constitution to bring these units of local government under the direct control of the General Assembly. The General Assembly may "*create, alter, consolidate and dissolve them.*" The General Assembly "*shall regulate the powers of units of local governments to borrow money and contract indebtedness regardless of whether the full faith and credit of such unit of local government is pledged to the repayment of this indebtedness.*" The General Assembly shall have the power to create and abolish local offices. In fine and in short, the proposed constitution delivers in fee simple the title to every local activity to the General Assembly.

Cities Abolished

In Jefferson and Kenton Counties, alone, 40 or more cities could be abolished or consolidated at a stroke of the legislative pen. This, clearly, places the very power of life and death over units of local governments smaller than a county in the hands of the General Assembly.

Such power, in my opinion, is unwarranted. It is believed that local officials, for instance, know more of the needs of units of local government than does the General Assembly. Certainly the Mayors and Councils of our cities should have authority to regulate the indebtedness of the units of local government which they are elected to administer. *Even revenue bonds—so helpful to local governments in bringing industries to Kentucky—shall be regulated by the General Assembly.* All the talk for the constitution has dealt in glittering generalities. Who knows about the needs of the town, the local people or the legislature?

Upsets Authority

The sum and substance of the proposed constitution is to transfer to the State Government the traditional supervision and authority of local affairs which heretofore have been regulated by local units of government.

If I wanted to handle you or a local government all I would need is to get hold of the purse strings. That is what the legislature would have the power to do under the new constitution if it is passed in November.

Chance For Abuse

It is no answer to such a sweeping grant of power that the legislature will not abuse it. No one can foreseen what *will be done.* The validity of this document must be gauged by what *can be done.*

Under the proposed constitution, the General Assembly "shall establish maximum rates of ad valorem taxation for the various classes of property subject to taxation by units of local government." Built upon an assessment of *100 percent of fair cash value* unlimited power of the General Assembly to enact new maximum rates as frequently as it chooses poses a constant threat of increasingly higher taxes with no limit fixed in the document itself.

Unbeatable Governor

Under the proposed constitution the governor may succeed himself. This is wrong because you would almost without exception have a governor for eight years. The cost of mounting a primary campaign against an incumbent governor is so great that there is little likelihood that an incumbent governor would ever be defeated. A governor would be stupid if he did not set up a political machine that would carry him into office for a second term. No opponent would have the strength to overcome the machine.

It may be, as is the case in other states with similar constitutions, that in a general election the opposing party might have a fighting chance to defeat an incumbent governor, but little or no chance is afforded in a party primary.

Members of the Senate, under the proposed document, would be elected for six years and members of the House of Representatives would be elected for four years. After the governor succeeds himself he would be in office longer than any member of the General Assembly.

No Such Terms

A veteran Capitol correspondent has examined the governmental structure in all of the states and has written no such terms of office are to be found in any state in the Union. A power block which would be undefeatable would be set up.

Absolute Rule

It requires no argument to demonstrate that, with the vast powers of the governor's office, the governor under the proposed constitution would or could exert almost absolute rule for a period of eight years.

A better plan to revise the present Constitution which, admittedly, needs revision, but not repeal, would not be difficult to contrive. If the entire document may be submitted directly to the people for approval, so also may any number of amendments. It is assumed that the whole Constitution is greater than any of its parts.

Amendments Suggested

A series of amendments could and should be submitted to the people in order that they might express their views on the separate subjects contained in the Constitution and not be forced to accept or reject an entire document with which it is impossible, under the present method of submission, to become familiar.

The foregoing objections to the proposed document are considered to be the most important ones, although there are many others. It is believed that these serious provisions or omissions are the result of the method by which the document was prepared and is being submitted to the people. The basic and fundamental law of the land deserves more mature consideration.

Law Students Organize Civil Rights Research Council

By PROF. ALVIN GOLDMAN

Early this semester a group of students formed a campus chapter of the Law Students Civil Rights Research Council.On September 14th this group was recognized by the College of Law faculty as an extracurricular activity of the College's student body. The College thereby joined over forty other law schools in participating in the Council's work.

The Council is a national association of law students who volunteer to assist attorneys, nonprofit organizations and government agencies involved in matters concerning civil rights, civil liberties and the defense of the poor. The Council's academic year program is designed to accomplish its goals through part-time student research, field investigation and memo writing. The Council also conducts a summer program of paid internships.

Among the Council's Board of Advisors are Senator Jacob Javits, former A.B.A. President Harrison Tweed, Eugene Rostow, Jefferson Fordham and many of the nation's most prominent civil liberties and civil rights lawyers.

The local chapter has already received two research projects through members of the faculty and one request from the Kentucky Civil Liberties Union.

To date the chapter has attracted a number of students who have long had a special interest in civil liberties, civil rights and "poor-people" law. But, in addition, it has interested several others who recognize that this activity provides that rare law school opportunity to work on real problems for practicing lawyers. The amount of time an individual student devotes to the group's activities is flexible, though certain minimum participation requirements may be established as a condition of voting in chapter elections.

Larry Neuman is president of our local chapter of LSCRRC. (Any student—first, second or third year—who is interested in joining the chapter, or finding out more about its activities, should contact either Larry or Mr. Goldman, the group's advisor.)

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ALUMS: Help, Send Info

In the next issue, we propose to include a feature entitled "Alumni News." The purpose of this feature will be to let you know what your classmates are presently doing. The only way that we can make this proposal a success is with your cooperation. Therefore, if you have recently received any honors, assumed a new position, or anything similar, please let us know in order that we may include it in the article.

ALSA Ranks Law College 'Upper Medium'

With the beginning of the fall semester, enrollment in the College of Law reached an all-time high. According to the rankings of law schools by the American Law Students Association, Kentucky is in the "upper, medium" group in size.

There is a total of 434 students this year, which represents an increase of more than fifty over last year. There are 157 freshmen, 152 second year students, and 125 seniors. Approximately 30 of this last group will graduate in December.

A New Charter

Vote Yes Says Kentucky Governor

Continued From Page 1

litigants, and most importantly, the cause of justice. Our inferior court system is confused and always a potential source of scandal. Many in the judicial office are untrained in the law. There is no guarantee of the right to appeal.

4. Government, in all branches and at all levels, is hard-pressed to display the efficiency, effectiveness, and wisdom—essential qualities of democratic government—and the result is gradual erosion of state powers in the face of federal government initiatives in the power-policy vacuum.

Clarifies Constitution

The Revision is intended to combat these problems in a manner thought to be most acceptable to most people. It retains all those provisions which facilitate this task and maintain protection of individual liberties. At the same time, it clarifies the Constitution, eliminating the late-Victorian gingerbread and adding other needed sections, for example in the Bill of Rights and the area of administrative procedure.

The end product projects a balanced, flexible governmental structure at all levels. It is a Constitution for which we can have unqualified respect. If some of its choices prove to be wrong, at least they are not absurd. Men of good will can act under it without the necessity of improvising paths around outdated restrictions, recourses which necessarily compromise both the consciences of men and the rule of law. It properly has the support of the Bar.

No constitutional revision *should* be adopted which lacks the warm support of the Bar. The question now is whether one with that support *can* win the approval of laymen.

Certainly, acceptance by the profession is no guarantee of general acceptance. In some quarters, indeed, it is a handicap, just as is the backing of the state administration. Government and attorneys are frequently joined in the same pattern of popular resentment and distrust, some of it justified, most of it not. I believe, as Governor and as a lawyer, that the justification is steadily declining, as both the Bar and government continue to set their respective houses in order.

The efforts of the opposition to the Revision has largely been directed toward transforming this generalized resentment into concrete "no" votes. (I don't believe that a good "anti" issue has been uncovered.) This, of course, is not an illegitimate strategy, compared to others in Kentucky's history. It should not, however, be confused with statemanship. If it is not illegitimate, it is short of being responsible.

The active opposition is a varied assortment. Included are officials concerned with losing constitutional protection for their jobs; lobbyists fearing the necessity for annual instead of biennial exertions with the legislature; politicians-on-the-make of both parties, anticipating voter rejection of the Revision, seeking to build a reputation through opposition; a collection of super-patriots; leaders in good faith disagreement with CRA judgments; and of course ordinary citizens confused and misled by the war of words.

Hat Off To Republicans

Alignments on the issue have not followed party lines. My hat is off to the Republicans and hostile Democrats who join the proponents even though they may perhaps have more to gain by joining the sizable group of fence-sitters.

Many had hoped that the ground rules for campaign techniques would be altered when an issue of such fundamental importance was on the ballot. In several particulars, this hope has been frustrated.

ITEM: The local government article has been the subject of abuse, at times by those who seem deficient in ordinary literacy skills, at other times by those whose candor is questionable.

I think that by now, the standard misconceptions have been overcome, including the myths that Frankfort would appoint local officials, or "abolish" their offices, or wipe out counties and cities. These have been the bread-and-butter of the opposition and for a time threatened to obscure the remarkable change in constitutional status which local government will realize under the Revision.

The point of Article VIII is to give the citizens of local government a new and very substantial grant of power to adapt their governmental structures and functions to suit local conditions. Uniformity in these matters under the 1891 version would thus yield to diversity within the new framework if local people so desired. Communities wishing to tackle new social and economic activities would be free to do so without having in advance to persuade the legislature that these activities were equally desirable for other units of government in the same class.

ITEM: Opponents use the art of selective quotation to raise another bogeyman, in this case predicting the end of exemptions from local taxation. They speak as though these exemptions now have a constitutional status. This, of course, is false; the exemptions are a matter of General Assembly discretion pursuant to Section 171. The Revision affords the same discretion.

The Revision grants the General Assembly the same power to classify local property, Art. X2(2), and to set the maximum rate of ad valorem taxation thereon, Art. VIII, 1. The legislature will also have the power to delegate parts of the taxing power to units of local government, Art. X, 2(2) which logically and legally implies the power to withhold other parts, *Kentucky and W. Va. Power Co.* v. *Holliday*, 287 SW 212. The exemption prohibition of Art. X, 1, (copied from Section 170) applies to exemptions from *all* taxation. *Martin* v. *High Splint Coal Co.* 103 SW2d 711.

ITEM: Another group of opponents—or perhaps one person with an ample supply of money—is trying to persuade that the Revision is a key instrument in a communist plot to take over Kentucky. You will find the authors of this theory pathetic, terrifying or infuriating, depending upon your mood.

ITEM: Opponents also argue, by a feat of logic, that in some sense the people are being denied the right to choose their constitution by the mode in which the Revision is presented. They say that the procedure of Section 258 should have been followed.

The Section 4 path was approved by the Court of Appeals in the *Gatewood* case. It is preferable to Section 258 in that popular ratification of the completed revision is required. The people showed by their rejection of convention calls in 1931, 1947, and 1960 that they will not trust elected delegates to act without subsequent ratification.

Opponents Object

ITEM: Opponents object that the Assembly was unrepresentative of the people. For my part, I cannot imagine a more representative group of citizens who possess the demanding qualifications for a task of this magnitude.

ITEM: Opponents say that a piecemeal process of amendment should be followed.

My reply is that it would take at least 52 years to follow a piecemeal process under the 1891 Constitution—that is, two amendments every two years. But amendments of the 1891 Constitution have lost 61 percent of the time. If the same percentage held in the future, we would have to wait until 2096 to eliminate the backlog of 52 separate changes which exists in 1966. Proposals to increase the number of amendments which can be presented at one time were rejected in 1929, 1937, 1951, 1957, and 1963.

I cannot escape the feeling that the several objections to procedure and the hollow alternatives offered are like the last gasp effort of the advocate who has no law on his side and so resorts to the intricate rules of common-law pleading.

Sessions Necessary

ITEM: Equally inevitably, opponents say that allowing future Governors to succeed themselves once implies autocracy. It will if the people re-elect an autocrat and the legislature backs him. But, some day, the people may want a good man to use his invaluable first-term's experience to their advantage for four more years. Why should they not have this power, just as the voters in 37 other states?

No doubt, other objections will appear before November 8, probably no more substantial than those I have mentioned. I hope that in the meantime, the members of the Bar will see their personal stake in the constitution campaign and work for its passage and that on November 9, we shall learn that the lawyers' revision is the laymen's as well.

Educational Journal Moved To University

Editorial offices of the Journal of the Legal Education, a quarterly circulated to all law teachers, state bar examiners, and over 200 law school libraries in the United States and foreign countries has been moved to the University. Official date for the moving of the office was July 1.

Published by the Association of American Law Schools, the journal has been edited since its founding in 1948 by the Duke University Law School Faculty.

The UK College of Law was selected by the association last year to take over editorial responsibility for the publication, Dean W.L. Matthews, Jr., said. Beginning with this year's fall issue, the editorial offices will be at UK for at least five years.

The new editorial staff from the UK law faculty is Prof. Frederick W. Whiteside as editor, and Profs. John R. Batt and Eugene F. Mooney as associate editors.

A full-time secretary-editorial assistant has joined the staff of the Journal. She is Miss Lela Denman. The Journal occupies an office in the law building.

Whiteside was faculty editor of the Kentucky Law Journal from 1950-1956, and Batt held the same position from 1960 to 1964. Mooney has been student editor of the Arkansas Law Review and has served as a faculty editor.

The journal to be published at UK is devoted primarily to professional articles on law teaching and curriculum matters, and has a circulation of 3,500..